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11	UNITED STATES DISTRICT COURT		
12	DISTRICT OF NEVADA		
13	UNITED STATES OF AMERICA,		
14	Plaintiff,	Case No.: 2:17-CR-00391-APG-VCF	
15	v.	Stipulation To Vacate And Continue	
16		Sentencing Hearing And Proposed Order	
17	FREDRICK LEAVITT,	(First Request)	
18	Defendant.	(That Request)	
19			
		I	
20	Certification: This Pleading is Timely Filed		
21	The undersigned parties respectfully submit the following Stipulation and		
22	Proposed Order for the Court's consideration.		
23	IT IS HEREBY STIPULATED AND AGREED, by and between the		
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undersigned parties, that the Rule 32 sentencing hearing presently set for **July 7, 2020** be vacated and continued to a date convenient to the Court, but no sooner than November 16, 2020.

The parties further stipulate that the requested continuance is warranted for the following reasons:

- 1. On March 18, 2020, the Court set this matter for a Rule 32 sentencing hearing at 11:00 a.m., on July 1, 2020. ECF No. 82. The hearing was subsequently moved to July 7, 2020. ECF No. 88.
- 2. After the Court originally set the hearing, and on March 30, 2020, the Chief Judge for the District of Nevada entered Temporary General Order 2020-05, regarding Authorization for Video and Teleconferencing Under the CARES Act And The Exigent Circumstances Created By COVID-19 And Related Coronavirus (hereinafter "General Order"). On June 25, 2020, the General Order was extended through September 28, 2020. The General Order addresses the material effect upon the functioning of the Court brought on by the current state of emergency arising from the COVID-19 and Coronavirus pandemic. The General Order finds, among other things, that for the duration of the General Order, in-person Rule 32 felony sentencing hearings cannot be conducted in the District of Nevada without seriously jeopardizing public health and safety. The General Order further provides that Rule 32 sentencing hearings may, with the consent of the defendant (upon advice of counsel), proceed by video or teleconference in individual cases, provided that the presiding Court specifically finds that to delay the matter further will cause serious harm to the interests

of justice. See also CARES Act, H.R. 748, Public Law No. 116-136.

- 3. The defendant desires an in-person Rule 32 sentencing hearing and the parties agree that further delay to accommodate an in-person hearing will not cause serious harm to the interests of justice. Accordingly, a continuance of the Rule 32 sentencing hearing to a date no sooner than November 16, 2020 – which is outside the duration of the General Order – is appropriate.
 - Defendant is out of custody and agrees to the proposed continuance. 4.
 - 5. This is the third request for continuance of the Rule 32 sentencing hearing.

WHEREFORE, the parties respectfully request that the Court accept this Stipulation and enter an Order vacating the current setting of **July 7, 2020**, for the Rule 32 sentencing hearing, and continuing the hearing to a date and time convenient to the Court but **no sooner than November 16, 2020**. The parties attach a Proposed Order for the Court's consideration.

DATED this 30th day of June, 2020.

Respectfully submitted, NICHOLAS A. TRUTANICH United States Attorney

/s/ STEVEN W. MYHRE Assistant United States Attorney PATRICK BURNS Trial Attorney U.S. Department of Justice, Tax Division

PAUL S. PADDA, ESQ. Counsel for Defendant Leavitt

1 2 3 4 5 UNITED STATES DISTRICT COURT 6 **DISTRICT OF NEVADA** 7 UNITED STATES OF AMERICA, 8 Plaintiff, No. 2:17-CR-00391-APG-VCF 9 v. 10 **ORDER** 11 FREDRICK LEAVITT, 12 Defendant. 13 14 This matter coming on the parties' Stipulation to Continue Rule 32 Sentencing 15 Hearing, the Court having considered the premises therein, and good cause showing, 16 the Court accepts the Stipulation of the parties and finds as follows: 17 The parties agree to the continuance requested in the Stipulation; 1. 18 2. Defendant is out of custody and does not object to the continuance; 19 3. The Court adopts and incorporates herein in full, District of Nevada, 20 Temporary General Order 2020-05 of March 30, 2020, regarding Authorization for 21 Video and Teleconferencing Under the CARES Act And The Exigent Circumstances 22 Created By COVID-19 And Related Coronavirus (hereinafter "General Order"), 23

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1	including the finding that in light of the current state of emergency brought on by the		
2	COV-19 pandemic, and during the time the General Order is in effect, the Court		
3	cannot conduct an in-person Rule 32 sentencing hearing without serious risk to the		
4	health and safety of the public and the parties involved in this matter;		
5	4. The defendant desires an in-person Rule 32 sentencing hearing and no		
6	facts have been presented to the Court to show that further delay of the hearing will		
7	seriously harm the interests of justice in this case;		
8	5. The General Order is in effect through September 28, 2020. Accordingly,		
9	pursuant to the Stipulation, the Court will continue and set the date for Rule 32		
10 11	sentencing hearing no sooner than November 16, 2020.		
12	IT IS THEREFORE ORDERED:		
13	1. The Rule 32 sentencing hearing set for 11:00 a.m., July 7, 2020, is		
14	VACATED and CONTINUED;		
15	2. The Rule 32 sentencing hearing in this matter will commence on		
16	December 8, 2020 at 2:00 p.m. in Las Vegas Courtroom 6C.		
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18	IT IS SO ORDERED this 30th day of June, 2020:		
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20	ANDREW P. GORDON		
21	UNITED STATES DISTRICT JUDGE		
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